

Continuation of Appn. 10/810865, dated 29 March 2004

**Remarks Amendment D**

**General**

The applicant respectfully requests that the application be amended as indicated and pray that the new limitations presented will provide condition for allowance. These limitations were not previously presented because the applicant desired the broadest coverage possible.

**Claims**

**Claim 1:**

Claim 1 is amended to include the subject matter of the allowed Claim 4 and dependent Claim 2 and Claim 3 in accordance with the Office Action (OA) correspondence (mailed 08-30-2005).

**Claims 2 and 3:**

Claims 2 and 3 are cancelled and the subject matter is now included in Claim 1.

**Claims 5, 6 and 7:**

Claims 5, 6 and 7 are dependent on Claim 1. The applicant assumes that if amended Claim 1 is allowed that these dependent claims will be allowed.

**Claim 8:**

The amended preamble of Claim 8 limits the use of the invention to coupled conduits that are used to house cables to better define the art of this invention. The claim defines the configuration of the interior of the conduits so as to accept cable installation using normal methods. Also, the seal definition is limited. The claim defines the location of the gripping means and the toggle clamps. The purpose of these changes is to better define the purpose of the invention and to show distinction over prior art.

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The OA states "When the prior art device is the same as a device described in the specification, it can be assumed the device will inherently perform the same process."

In order for the prior art device and the device described in the specification to be the same the prior art must be anticipated to be combined.

"Prior art references in combination do not make an invention obvious unless something in the prior art references would suggest the **advantage** to be derived from combining their teachings." In re Sernaker, 702 F.2d 989 (1983).

The **advantages** of the present invention as listed in the specification are cost effectiveness, easy to install **without tools**, is structurally sound, can easily be removed, is reusable, can be used for broken conduit repair, provides a positive seal between conduits, rigidly joins the conduits, and is well suited for allowing (optical or electric) cable insertions by conventional processes.

Brunhoff is not cost effective, is not structurally sound for this application because it **does not rigidly join the conduits**, cannot be used for broken conduit repair, and cannot allow insertion of cable because the conduits are filled with oil (nonanlagous art) and are joined by a threaded coupling.

Prior art Figure 1 does not contain hinges, does not have toggle clamps, is not easy to install without tools, and cannot be easily removed.

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Since nothing in either prior art suggests all of the **advantages** of the present invention and did not suggest the invention's result, the invention is non-obvious. The asserted prior art device(s) is not the same as the invention and therefore cannot be assumed to inherently perform the same process.

The OA states that "in regards to claim 8, Applicant's prior art Figure 1 in view of Brunhoff disclose the claimed invention except for a method of rigidly joining abutting ends of relatively soft plastic conduits." Brunhoff shows two half shells (14,15) that house eight separate pieces of soft rubber seals (26,27,28,20). Brunhoff shows two conduits (20) joined with a threaded coupling (21). Therefore, Brunhoff cannot be "inserting the end of first said conduit approximately halfway into an "encompassing seal" or "a generally cylindrical continuous circumferential seal" because:

- a) Brunhoff's seal is in eight pieces that are integral with the "half shells".
- b) Brunhoff's conduit is normally attached to another conduit through a threaded coupling, then the toggle operated sump is applied and therefore **neither conduit can be inserted into the seal** of this invention.
- c) Brunhoff does not prepare conduit for the installation of cable within the conduit.

Brunhoff cannot "insert the end of second said conduit" for the exact same reasons.

None of the prior art can be "encompassing said conduits and said seal with a pair of hinged half shells" because:

- a) prior art Fig. 1 has no hinges, and
- b) Brunhoff shows eight separate seals integrally mounted in half shells and therefore the hinged half shells cannot encompass a seal.

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No teaching in the prior art suggests the combination of the method of this claim.

There is no suggestion in the prior art of the **advantage** (see prior listing) to be derived from combining their teaching. In order for that to exist, prior-art Fig. 1 would have to suggest the use of toggle clamps, or Brunhoff would have to suggest the use of an encompassing seal. Neither of these exists in the prior art and therefore the suggested **advantage** is lacking. Without the suggestion, the applicant contends that the method of this invention is not obvious to someone skilled in the art.

"—the examiner cannot establish obviousness —unless examiner also provides evidence of motivating force which would impel person skilled in art to do what applicant has done." Ex parte Levengood, U.S.P.Q.2d 1300.

There is no such evidence of motivating force which would impel a person skilled in the art to do what the applicant has done.

Therefore the cited prior art should not be combined and the prior art is not the same as the applicant's invention and will not perform the method claimed.

Further, there is no suggestion in the prior art concerning installing a cable in the conduits.

Finally, none of the prior art defines the location of the toggle clamps with respect to the gripping means.

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**Claim 9:**

Claim 9 offers further distinction over the prior art. The half shells with a plurality of hinges are discussed in the specification on page 3, first paragraph and page 4, first paragraph, in the Detailed Description of the Invention and further shown in Fig. 2B as the structure around hinge pin 16. The circumferential seal cavity is discussed in the specification on page 3 in the first paragraph and shown in Fig. 2C. The position of the toggle clamps with respect to the gripping means is discussed on page 5, second paragraph and is shown in Fig. 2A relative to Fig. 2C.

None of the prior art suggests the location of the toggle clamps with respect to the location of the gripping means. Other arguments about prior art discussed in remarks about Claim 8 also apply to this claim but the applicant spares the repetition here.

The applicant respectfully requests, that if any of the combination of material in new or amended Claims 8 and 9 is deemed patentable but not properly claimed herein, that a proper claim or claims be provided by the examiner.

**Conclusion:**

For all the above reasons, Applicant submits that the specification and claims are in proper form, and that the claims all define patentability over the prior art.

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Therefore, the Applicant submits that the application is now in condition for allowance and respectfully requests such action.

Very Respectfully,

A handwritten signature in cursive script, reading "Myrl J. Saarem".

Myrl J. Saarem

Phone and Fax 775-882-4075

E-mail msaarem@charter.net